

91-011A

A. G. Contract No. KR94-3053-TRN
ECS File: JPA 91-11A
Project: H 0875 02D/H 0875 02C
Section: Red Mountain Freeway
(Pima Freeway-
McKellips Road)

ADDENDUM

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF MESA**

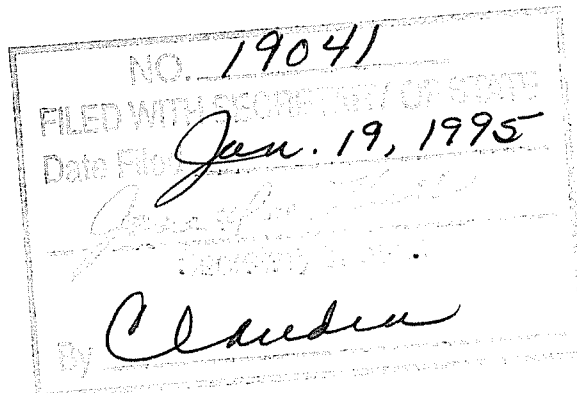
THIS AGREEMENT is entered into 19 January, 199⁵, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF MESA, acting by and through its CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 and City Charter Article I, Section 103 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The purpose of this addendum to this agreement is for the City to authorize the State to acquire property for the Dobson Road Extension in the name of the City, which is part of the settlement.



II. SCOPE OF WORK

1. The State may acquire property in the name of the City, the rights of way required for the Dobson Road Extension, and, the City hereby authorizes the State to condemn rights of way in the name of the City as necessary to accomplish said acquisition.

2. The City shall accept any rights of way for the Project acquired by the State as part of the City.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Projects; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the commencement of construction, upon thirty (30) days written notice to the other party. Notwithstanding the foregoing provisions, this agreement may not be cancelled by the State after the City deeds land to the State pursuant to this agreement unless mutually satisfactory arrangements are made respecting such conveyance, such as reconveyance by the State of the land to the City.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

City of Mesa
City Manager
55 N. Center Street
Mesa, AZ 85201

7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

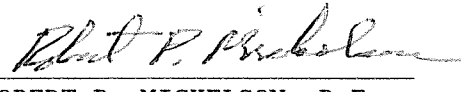
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF MESA

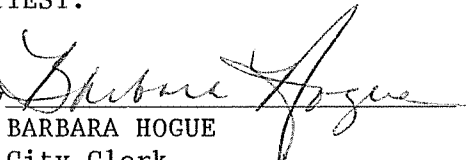
By 
CHARLES K. LUSTER
City Manager

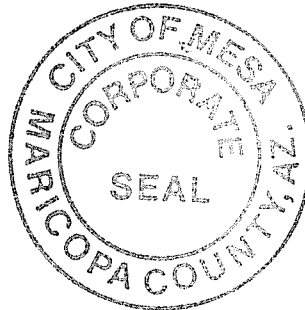
STATE OF ARIZONA

Department of Transportation

By 
ROBERT P. MICKELSON, P.E.
Chief Deputy State Engineer

ATTEST:

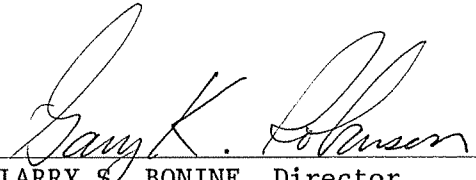
By 
BARBARA HOGUE
City Clerk



RESOLUTION

BE IT RESOLVED on this 9th day of December 1994, that I, the undersigned, LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interest of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Mesa for the purpose of authorizing the State to acquire property under condemnation in the name of the City for the construction of the Red Mountain Freeway.

THEREFORE, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Chief Deputy State Engineer for approval and execution.

for, 
LARRY S. BONINE, Director
Arizona Department of
Transportation

APPROVAL OF THE MESA CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the CITY OF MESA, and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 3rd day of January, 1994.⁵

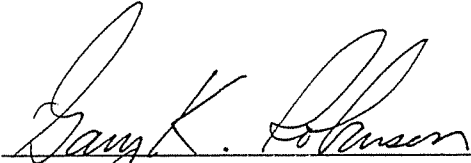
Neal Belts

City Attorney

RESOLUTION

BE IT RESOLVED on this 9th day of December 1994, that I, the undersigned, LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interest of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Mesa for the purpose of authorizing the State to acquire property under condemnation in the name of the City for the construction of the Red Mountain Freeway.

THEREFORE, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Chief Deputy State Engineer for approval and execution.

for, 
LARRY S. BONINE, Director
Arizona Department of
Transportation



CITY OF
MESA

Certificate of CITY CLERK

I, BARBARA HOGUE, THE DULY APPOINTED, QUALIFIED AND ACTING CITY CLERK OF THE **CITY OF MESA**, MARICOPA COUNTY, ARIZONA, DO HEREBY CERTIFY THAT THE ATTACHED COPY OF RESOLUTION NO. 6724 ENTITLED:

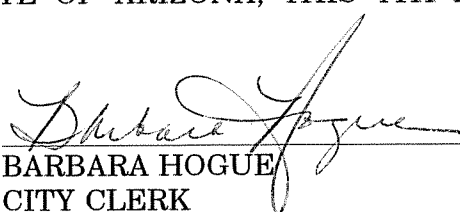
RESOLUTION NO. 6724

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN ADDENDUM TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MESA AND THE STATE OF ARIZONA, ACTING THROUGH ITS DEPARTMENT OF TRANSPORTATION, PERTAINING TO THE RED MOUNTAIN FREEWAY.

IS A TRUE, CORRECT AND COMPARED COPY OF THE ORIGINAL OF RECORD, AND ON FILE IN THE OFFICE OF THE CITY CLERK OF THE **CITY OF MESA**, ARIZONA.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF THE **CITY OF MESA**, MARICOPA COUNTY, STATE OF ARIZONA, THIS 4TH DAY OF JANUARY, 1995.




BARBARA HOGUE
CITY CLERK

RESOLUTION NO. 6724

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN ADDENDUM TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MESA AND THE STATE OF ARIZONA, ACTING THROUGH ITS DEPARTMENT OF TRANSPORTATION, PERTAINING TO THE RED MOUNTAIN FREEWAY.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: Approving the addendum to the Intergovernmental Agreement between the City of Mesa and the State of Arizona (Project H 0875 02D/H 0875 02C).

Section 2: Authorizing the City Manager to execute the Agreement on behalf of the City of Mesa, and authorizing the City Clerk to attest to the signature of the City Manager thereon.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 19th day of December, 1994.

APPROVED:



Willie King
MAYOR

ATTEST:

Deborah Hogue
City Clerk



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR94-3053-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 12th day of January, 1995.

GRANT WOODS
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:ggt
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